

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7320

BILL NUMBER: HB 1364

NOTE PREPARED: Jan 27, 2004

BILL AMENDED: Jan 26, 2004

SUBJECT: Tobacco Payment Securitization.

FIRST AUTHOR: Rep. Kuzman

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill establishes the Tobacco Settlement Corporation. The bill permits the Corporation to purchase all or part of the state's right to receive payments under the Tobacco Master Settlement Agreement and to issue bonds payable from those payments. The bill also provides that the bond proceeds must be used to fund any appropriations made from the Master Settlement Agreement Fund by the 2003 Budget Bill (to the extent that there is insufficient money in the fund for that purpose) and other programs and purposes established by the General Assembly. It further provides that the corporation is subject to certain administrative rules concerning participation by minority and women's business enterprises in procurement and contracting processes.

Effective Date: Upon passage.

Summary of Net State Impact: This bill provides for the sale of the state's anticipated Tobacco Master Settlement Agreement income stream to the Tobacco Settlement Corporation. The Corporation would securitize any portion or all of the income through the sale of bonds at a discount for a lump sum payment. The securitization of 100% of the Tobacco Settlement revenue stream is estimated to raise \$1.3 B in net proceeds from the sale of tax exempt bonds in FY 2005. A sale of 40% of the revenue stream is estimated to raise \$540.3 M in net proceeds in FY2005. The amount of income to be securitized and the resulting lump sum payments would be dependent upon administrative decisions and market conditions. Proceeds from the sale of bonds not needed for the expenses of the Corporation, the issuance of bonds, and debt service would be deposited in the state's Tobacco Securitization Endowment Fund.

Tobacco Settlement Corporation: The bill establishes the Tobacco Settlement Corporation as a public body corporate and politic, separate from the state. The Board of Directors is to consist of the Governor, the Lieutenant Governor, the Treasurer, or their designees, and four members appointed by the Governor. The

Governor serves as the Chairperson and the Lieutenant Governor serves as the Vice-Chairperson of the Corporation. The Corporation may employ independent counsel, bond counsel, financial advisors, investment bankers, auditors and other technical or professional assistants, agents, and employees. Employees of the corporation are not employees of the state.

Explanation of State Expenditures: *Existing Obligations:* The bill contains provisions to ensure that sufficient Tobacco Master Settlement Agreement revenue or proceeds from the securitization transaction would remain available to or within the existing state Tobacco Master Settlement Agreement Fund to meet the appropriations made in P.L. 274-2003 (the Budget Bill). The provisions of the bill are effective upon passage; the FY 2004 Tobacco Master Settlement payment receipt is expected April 10, 2004, after the effective date. For the purposes of this analysis, it is assumed that the securitization would not include the sale of the state's interest in the FY 2004 revenue.

Background: The Auditor's Year-end General Ledger identified the June 30, 2003, balance of the Tobacco Master Settlement Agreement Fund to be \$275.8 M. Of that amount, the Budget Agency identified a total of \$52.5 M in "carry-over" funds from the prior year's appropriations. In addition to the \$52.8 M of "carry-over" within the accounts of the Tobacco Master Settlement Agreement Fund, there should be a balance of approximately \$12 M of Tobacco Master Settlement Agreement funds in the CHIP account available to meet FY 2004 CHIP expenditures. The balance of money in the Fund that would be available for the FY 2004 and FY 2005 appropriations is dependent upon how the Budget Agency allots the FY 2004 appropriations. If the allotment is for less than the full FY 2004 appropriation for those accounts with "carry-over" dollars; requiring the expenditure of the "carry-over" first, then the actual expenditures for FY 2004 would be less than the total appropriation and the ending balance available for expenditure in FY 2005 becomes larger. The Fund balance, estimated revenue for FY 2004 only (assuming 100% securitization in FY 2005), appropriations made in P.L. 274-2003, and the estimated ending balances are provided in the following table.

Tobacco Master Settlement Agreement Fund	FY 2004	FY 2005
* Beginning Balance, July 1	\$ 224.2 M	\$ 182.2 M
Plus: Estimated Revenue, April 10	\$ 127.6 M	0
Less: Appropriations	\$ 169.6 M	\$ 172.0 M
Ending Balance, June 30	\$ 182.2 M	\$ 10.2 M
* The beginning balance assumes a Tobacco Master Settlement Agreement Fund FY 2003 unappropriated balance of \$224.2 M. This beginning balance does not include the \$52.5 M of Tobacco Settlement Fund "carry-over" or the \$12 M in CHIP "carry-over" funds discussed above.		

Explanation of State Revenues: *Sale of Revenue Stream:* The bill establishes the Tobacco Securitization Endowment Fund to receive bond proceeds from the securitization of a portion or all of the Tobacco Master Settlement Agreement revenue. Net bond revenue is to be deposited in the Securitization Endowment Fund by the Tobacco Settlement Corporation. The Fund is to be held by the State Treasurer and administered by the State Budget Agency. Interest earnings from any investments of the Fund accrue to the Fund. Money in the Fund is nonreverting and subject to appropriation by the General Assembly. (Net state proceeds are discussed in the *Summary of Net State Impact*.)

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: State Budget Agency; Treasurer's Office.

Local Agencies Affected:

Information Sources: Auditor's General Ledger, Year-End Balance, June 30, 2003; Dhiann Kinsworthy, Budget Analyst, State Budget Agency, 317-232-7221; Mark Moore, Director, Indiana Public Finance Office, 317-233-4334.

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